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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 789/2003

April 20, 2007

N.P.SINGH ..... Petitioner
Through Ms. Sunita Bhardwaj, Advocate

versus

UOI & ORS. ..... Respondent
Through Ms. Anjana Gosain for AAI

CORAM:

Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in the Digest?

Mr. Justice S. Ravindra Bhat (Open Court)

1. This petition seeks review of the judgment dated 13.12.05 disposing off WP(c) 789/03.

2. Although several grounds were alleged in the petition, Ms. Sunita Bhardwaj, learned counsel urged that the petition is premised primarily on the conclusion in paragraph 6 of the judgment ie. that no documents were produced on the basis of which the claim to the post of Assistant Technical Officer was

made w.e.f. 07.02.96 being erroneous. She relied upon a portion of the Annexure P-38 filed along with the rejoinder, which it was submitted, is a full text of Annexure P-10. In that document, the Airports Authority of India, the employer, had listed some officials promoted to the post of Assistant Technical Officer on 07.02.96, without undergoing the test, who were granted a window period of one year to enable to do so. That relief was granted to about 75 officers shown between serial No. 49 to 124. Counsel submitted that in view of this position, it was apparent that the petitioner also was entitled to same treatment . This, according to her constituted a material error on the face of the record requiring review.

3. Ms. Anjana Gosain, learned counsel for the Airports Authority of India, on the other hand, contended that there is no error since the condition now sought to be relied upon was never pointed out during the course of hearing. It was submitted that the petitioner was denied the one time benefit through flexible complementing scheme, since he was on unauthorized leave during that period.

4. Ms. Sunita Bhardwaj, submitted that the period of unauthorized leave was regularized by a subsequent order and that in October, 1998, the petitioner had been exonerated of all charges in the pending disciplinary proceedings.

5. The above facts would show that the notice of the Court at the time of hearing was not brought to the condition Nos. 3 and 4 in the order dated 07.06.96 which had granted promotion, by the flexible complementing scheme to 124 eligible persons. This was actually noticed in para 6 of the judgment; though the record did contain the relevant material. This, in my opinion, did constitute

sufficient cause requiring review as the petitioner clearly fell within the said class of persons who were granted a years' time to clear the test.

6. Having considered the materials on record and the circumstances, particularly, that the petitioner had been exonerated of all charges in 1998 and the further fact that his period of unauthorized absence (at that time contemporaneously in 1996) was subsequently regularized, I am of the opinion that even though it would not be appropriate for the Court to direct the respondent authority to grant promotion with effect from the date it was granted to others, yet, the petitioner has made out a case for re-consideration of the materials by it.

7. In view of the above conclusion, the judgment dated 13.12.05 is modified to the extent that the Airports Authority of Indian shall consider the claim of the petitioner to be treated *at par* with the others who were promoted by order dated 07.02.96 and if found suitable grant him the same opportunity as was granted to them. It is made clear that this exercise shall be conducted by the Airports Authority of India on an overall consideration of all the factors relevant for the purpose and completed within 10 weeks from today. The order shall be communicated directly to the petitioner.

8. The review petition and is allowed to the above extent.

S.RAVINDRA BHAT, J

APRIL 20, 2007
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